

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

COMPLAINT

COMES NOW the Plaintiff, by counsel, and as and for his complaint against the Defendant, states and alleges as follows:

PARTIES

1. The Plaintiff, Lyndell Gibson Gibson ("Gibson"), is an African-American citizen and a resident of the City of Grand Prairie, Dallas County, State of Texas.
2. The Defendant, YRC Freight ("YRC"), is a corporation organized and existing under the laws of the State of Delaware, that is registered to do business in the State of Texas and with its principal place of business located at 10990 Roe Avenue, Overland Park, Kansas 66211-1213.

3. Defendant International Brotherhood of Teamsters is an organization with Local division throughout the Unties States, with its headquarters located at 25 Louisiana Avenue N W, Washington, D. C.

JURISDICTION AND VENUE

4. This is an action arising under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17.

5. This Court has subject-matter jurisdiction over this matter pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 2000e-5.

6. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391(b) and 42 U.S.C. § 2000e-5(f)(3) because YRC resides in this district and a substantial part of the events giving rise to the claim took place in this district.

ADMINISTRATIVE PREREQUISITES

7. Gibson has complied with all of the administrative prerequisites to this Title VII action pursuant to 42 U.S.C. § 2000e-5(e) and (f).

8. Specifically, on or about February 13, 2015, Gibson timely filed a Charge of Discrimination with the Texas Workforce Commission Civil Rights Division ("TWC"), which was jointly filed with the U.S. Equal Employment Opportunity Commission ("EEOC").

9. Gibson promptly and diligently responded to all TWC and EEOC requests for information and fully cooperated in the agencies' investigation of this matter.

10. On or about July 24, 2015, Gibson received a Notice of Right to Sue from the EEOC, dated July 21, 2015.

GENERAL FACTUAL ALLEGATIONS

11. At all relevant times herein, YRC qualified as an "employer" within the meaning of Title VII as it has "engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year." 42 U.S.C. § 2000e(b).

12. At all relevant times herein, Gibson qualified as an "employee" of YRC within the meaning of Title VII. *See 42 id. § 2000e(f)* (defining "employee" as "an individual employed by an employer").

13. On or about February 5, 2015, Gibson learned of a hangman's noose in a colleague's switching buggy while in the YRC facilities.

14. A hangman's knot or hangman's noose is a well-known way of tying a rope that is most often associated with its use in hanging a person.

15. A hangman's knot or hangman's noose is well-known to have been used to hang and/or lynch African-Americans in this country and the South in particular.

16. Gibson promptly informed YRC management, both verbally and in writing, about the presence of the hangman's nooses on YRC premises.

17. Although YRC purports to have conducted an investigation into the incidents, and despite the fact that YRC has video surveillance cameras throughout its

facilities, YRC has failed to explain the presence of the nooses and/or to identify the person or persons responsible therefor.

COUNT I

Title VII-Hostile Work Environment

18. Gibson hereby incorporates by reference paragraphs 1 through 17 of this Complaint as if fully restated herein.

19. Gibson is African-American.

20. Gibson was subjected to unwelcome harassment based on race.

21. Said harassment affected a term, condition, or policy of Gibson's employment with YRC.

22. YRC knew or should have known of said harassment but failed to take prompt remedial action.

23. As a proximate result of YRC's actions and omissions, Gibson has suffered, and will continue to suffer, serious mental anguish.

PRAYER FOR RELIEF

WHEREFORE, Gibson respectfully requests that this Court enter judgment in his favor and against YRC as follows:

- A. Declaratory judgment that YRC violated Title VII by creating or allowing a racially hostile work environment;
- B. Injunctive relief prohibiting YRC from creating, allowing, or permitting a racially hostile work environment in violation of Title VII;
- C. Award Gibson compensatory damages of \$150,000;
- D. Award Gibson punitive damages of \$5,000,000.00;
- E. Award Gibson reasonable attorney's fees and costs incurred in this suit; and
- F. Such other and further relief the Court deems just and equitable.

**PLAINTIFF REQUESTS A TRIAL BY JURY ON ALL
CLAIMS ALLOWED BY LAW**

Respectfully submitted,

LYNDELL GIBSON

By Counsel

/s/Gerald J. Smith, Sr.
Gerald J. Smith, Sr.
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Lyndell Gibson

(b) County of Residence of
~~Plaintiff~~ (EXCEPT IN U.S. PLAINTIFF CASES)

Dallas

(c) Attorneys (Firm Name, Address, and Telephone Number)

The Law Office of G. J. Smith, Sr, PLLC; Atty Gerald J. Smith, Sr.
2000 E. Lamar Blvd., Suite 330, 817.635.3100
Arlington, TX 76006**DEFENDANTS**

YRC, INC. d/b/a YRC Freight; International Brotherhood of Teamsters

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF

Attorneys (If Known)

Norton, Rose & Fulbright, US LLP; Atty Jamila S. Mensah
1301 McKinney, Suite 5100, 713.651.5631
Houston, TX 77010**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

PTF	DEF	PTF	DEF
<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4 <input checked="" type="checkbox"/> 4
<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5 <input checked="" type="checkbox"/> 5
<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability PERSONAL PROPERTY <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			IMMIGRATION	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	
				FEDERAL TAX SUITS
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 2000e-2000e-17, 28 USC 1331, and 42 USC 2000e-5**VI. CAUSE OF ACTION**

Brief description of cause:

Hostile Work Environment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION
UNDER RULE 23, F.R.Cv.P.DEMAND \$
\$5,000,000CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED PENDING OR CLOSED CASE(S)**

(See instructions):

IF ANY

JUDGE (see attachment)

DOCKET NUMBER

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE